20

Advice before it be too Late:

OR, A

BREVIATE for the CONVENTION,

Humbly Represented to the LORDS and COMMONS of *ENGLAND*.

WHEREAS We cannot but be made very apprehensive by those several efficacious Papers, such as Dr. *B*'s, Mr. *F*'s, *A Word to the Wise*, and another as close, *Four Questions Debated*, and the like; which go about, lest the swaying Part of the Nation should be so much intent upon *One* Thing, as that *Others* be neglected; or lest they be so taken up with putting the *Crown* upon an Head most deserving it, as that they forget what is to be done first; which is, The Consideration of the *Constitution of the Realm*, and the declaring that *Constitution*, before any Person be *Admitted* into actual Regiment; it being common for Those that look but on *One* Thing, to be too sudden: We therefore judg it meet, That this ensuing *Sheet*, which was in a few *Copies* given to some *Members* of the *Houses*, for preventing that Evil, should also be made Publick, to go Abroad with such *Papers* as Those of the former Nature. For, as it is *Wise* in a *People*, when they make any *Compact*, whether with their *Rulers*, or Others, that though they believe the Party they deal with, to be the *Best* in the World, To treat with him for all that, and be as Punctual upon the Terms to make all secure, as if they were dealing with the *Worst*: So it is also *Honest* for Them, in seeking the Good of their *Country*, to deny *Self-Interest*, and to prefer the *Benefiting* a *Nation*, before the *Magnifying* any *Single Person* whatsoever.

The *BREVIATE*.

THE *People* of this *Nation* are by Birth a *Free People*, who are born to a *Liberty* of *Person* and *Propriety* in their *Goods* and *Lands*; and therefore *England* is rightly call'd a *Free State*.

To understand the *Government*, we must know that these Two things are always to be distinguished, The *Constitution*, and The *Administration*.

The *Constitution* of a *Government* does lye in the *Original Agreement* of the *People*, which they make between *Themselves*, or with their intended *Governour*, or *Governours*, before the *Government* be set up, whether there be *None* before, or the *Former* at an end.

When the People are in such a State, while there is no Order of Superiority, or Inferiority introduced, it is called a *Community*: When a *Ruler* is *chose*, so that there is a *Ruling* and *Ruled Part*, it is a *Society*, or called a *Common-Wealth*.

Let us suppose a Company of *Families*, that having no dependance on one another, nor any one having Power over the other, yet living near each other, do find it convenient to join together into a *Society*, for mutual *Defence* against some Foreign *Enemy*, or for the *reaping* several *Advantages*, which they shall receive by it. The *Heads* or *Representatives* of these *Families* assemble, to consider what is to be done in order to these Ends. Three things more especially they must consult upon: What Government (as to the *Sort* or *Kind*) is best for them? Who shall be *Governour* or *Governours*? And by what *Laws* or *Rules* they shall *Govern*, who are entrusted with the *Supreme Power*? And more particularly, in relation to what *measure* of it they will allow them to have over their *Persons* and *Estates*, to use them as they have Occasion, for the Publick Good. For when they are yet *Free* in *Both*, the *Governour* can have power so far, but no further than they at first *Consent*. Whatsoever *Reservations* of *Liberty* the *People* make in their *Agreement*, these are to be look'd upon as their *Rights* by the *Laws* of the *Constitution*, and *Essential* thereunto, and consequently *inviolable* by any of these *Governours* whom they set up for the *Administration*; the very *Laws* of the *Administration* being *void*, so far as they *interfere* with any of *those* of the *Constitution*.

The *Constitution* and Laws thereof being *agreed upon*, and it being impossible for humane Prudence to fore-see all Accidents, which must be provided for, therefore as they arise, the Administration necessarily must lye in these two things: The making *further* Laws (subordinate still to those fore-prized) as occasion requires, and seeing them *Executed*; that is, in *Legislation* and *Judgment*. The One is the Business of the *Supreme Authority*

thority; the Other of the *Inferior Magistrates* or *Officers*, and *Executioners* of the same, according to that *Fundamental Agreement* made by the *People*.

Our *Government* now as *Constitnted* in order to this *Administration*, is, we know, a *mixt Government*. A *Government* is known to be *pure* or *mixt*, by the placing the *Supreme Authority*. If the *People* place it singly in the *King*, or singly in the *Nobles*, or singly in the *People*, then it is a *pure Monarchy*, *Aristocracy*, *or Democracy*: But when it is placed in all *Three*, it is a *Mixt* Government, as *Ours* is, where there are no *laws* in the Administration made but by *King*, *Lords* & *Commons*.

These things I pursue only *so far* as is *necessary*, to the *reaching* my main *purpose*; and the *leading* me to a right *Discernment* of the present *Condition* into which we are now brought, in regard to this said *Government*.

The *Supreme Power* of the *Nation* being placed in a *Parliament*, which is a *Corporation* of *King*, *Lords*, and *Commons*, that is, The *Supreme Authority* residing in *King*, *Lords* and *Commons*, as *One Corporation*, there does appear, at this Conjuncture, a *Dissolution* of the Government; A Dissolution manifestly, as to the *Exercise* of it. This *Appearance* does rise from the opening of the last *Scene*. For the *King* being now gone, gone from his *People*, and departing from his *Government*, that *One Corporation* (we speak of) is *broke*; so that there remains now no *Subject* for that *Supreme Authority*; It being evident, that a *Parliament*, wherein an Essential point of our *Constitution* does consist, cannot now be *Assembled*: And the Providence of GOD it self hath extraordinarily determin'd our Case. If a *King* dies, he hath a *Successor*, and the *Right* devolves upon *Him*; but whilst the *King* lives, he hath no *Successor*, and the Right remaining in *Him* and no *Other*; and he being *divided* from his *Lords* and *Commons*, the *Subject* of the *Supreme Power*, or this *One Corporation*, (whereof the *King* is a Chief, Essential, and *Constituent* Part) does perfectly *cease*, and must necessarily Cause a *Dissolution*.

I choose not to *found* this *upon* what does more convince *Others*, which comes to this Account: The *King*, by his frequent *Malversation* in the *Government*, and rooted Design of subverting our *Religious* and *Civil* Rights; for the Introduction of *Arbitrary Power* and *Popery*, which being aggravated by such an *Endeavour*, as the *destroying* that *Share* in the *Government*, which every *Commoner* hath, that hath *Right* to choose his *Representative* in *Parliament*, by his *Garbling Corporations*, and so *evacuating* this *Liberty* in effect; and by such an *Endeavour* also, as the *exterminating* his *Protestant Subjects*; seeing that Religion which he would have introduced, is such, as by the *Principles* of it, if it comes into Domination, must do so to all *Heretick*s; and thereupon may He be look'd on no longer as *Rex*, but *Hostis*, and *Hostis Publicus*: Besides, the subjecting us to a *Foreign Jurisdiction*, and the very *Changing* the *Government*, by that indefinite *Dispensing Power* over the Laws, as was carved to him by his *Judges*, from *Regal* to *Despotical*: It is Judged by them, that he is fallen thereupon from his *Royal Dignity*; and that the *Universality* thereby have *Warrant*, not only to defend themselves against Him, but by Vertue of that *Sanction*, which is tacitly implyed in the *Laws* of the *Constitution*, to proceed on to *take* the *Forfeiture* He hath made of his *Government*, and *Depose* Him; For it is a fond thing, (think they) to imagine any *Laws* without a *Sanction*; and impossible there should be any other *Sanction* in *Treaties* between *Free Nations*, or between a *Free People*, and the Governor they set over Themselves, than *Force* to be used by the Parties concern'd; there being no *Third* Party on *Earth* to appeal to, in such Cases.

However this be, it being taken for granted, *That* the *Government* is *dissolved*, and I suppose upon that preceding Account, of the *One Corporation* (I say) being *broke*, the *Supreme Authority* that lay before in the *Three* as united in *One*, does *escheat*, or fall to the *Community*; who must therefore *choose* a new *Subject* for that *Power*; and it lies at their Discretion to place it in what Subject they please: They may lodge it in the *Lords* and *Commons* alone, without a *King*, if they think that Government best; the matter lies altogether upon their Agreement, and *Consent*. I suppose it most likely, that they will agree to place it again in a *Monarch*, *Lords* and *Commons* (the *Person* only left at Choice, and Care had to prevent all Danger of *Law* in the Case) according to the Ancient Constitution, Though who can know the Mind of a Nation, when once come

together, if he knows his own *Mind?*

There is one thing we have now Opportunity to obtain, which we can never recover again, if it be [illegible] and that is, what His Highneſs the Prince of [illegible] hath made One of his Two Deſigns, *The Delivery of the People from Slavery*; which can never be done effectually, and radically, but upon this *Advantage*. The *Delivering* us from *Popery*, is contained in the *Setling* our Religion; and *That* being a Work of great length, is the buſineſs more properly of a *Parliament*; but *This* is a thing muſt be done by the *Community*, and conſequently by thoſe that are the Repreſentatives of it, a *Convention*, ſo Called, (in regard to a Higher Capacity hereunto) and not a *Parliament*; for that repreſents the People, not as in a *Community*, but as in a *Common-wealth*, where there is *pars imperans*, as well as *ſubdita*, which now is not. A *Parliament* makes Laws for the *Adminiſtration*, but the *People* as in a *Community*, makes Laws for the *Conſtitution*.

I would therefore humbly offer it to the Conſideration of Thoſe, who ſhall meet as Members of this *Convention*, That, in order to the Effect premiſed, they do but agree and pitch upon this One certain Point of *good Polity*, That where they place the *Supreme Authority*, they lay alſo the *Rights* or *Properties* of it; that is, the *Jura Majeſtatis* (*Majeſtas* being *Maxima Poteſtas*) all together.

The Rights of *Majeſty*, or the *Supreme Power*, are mainly theſe: The Firſt is *Legiſlation*, or making Laws; and this undoubtedly lies in a Parliament. The next, is the Power of raiſing *Arms*, or Armies, or the *Militia*, the Power of making *Peace* and *War*, or the *Power* of the *Sword*, which is neceſſary to maintain thoſe Laws. The Third, is a Power over our *Eſtates*, or the *Purſe*, or raiſing *Money*, which muſt maintain the *Sword*. A Fourth, is the Power of *chooſing Magiſtrates*, to rule Us according to theſe *Laws*; ſuch as *Judges* and *Sheriffs*, to name no other. A Fifth, is the *laſt Appeal*. Now, let but the Power of the *Militia*, and *chooſing Magiſtrates*, be laid where *Legiſlation* is, and we ſhall be fundamentally delivered from all *Slavery* for ever in the Nation.

If we be *Enſlaved* or oppreſſed by any *Prince* for the Time to come, it muſt be either by *Force*, or by *Injuſtice*. We cannot be oppreſſed by *Force*, becauſe no Forces then can be raiſed by him, but by a Parliament. He cannot rule by an *Army*, or by Violence; for the *Militia* is in the *Lords* and *Commons*, as well as in Him, and They will not let him do ſo: We cannot be oppreſſed with *Injuſtice*; for the *Judges* and *Officers* employed with the Execution of *Juſtice*, ſhall be [illegible] alſo by them, and they will look

It is true, while no *Parliament* [illegible] by Vertue of the Executive [illegible] raiſe Arms, and put in Ou[illegible] there is need; but *Both* theſe are to the Controul of the next *Parliament*, therefore to ſit often by ancient Statute, being no War to be levied, nor Magiſtrates *Confirmed*, without their Approbation.

Let us remember the State we are in, a State that puts the *Supreme Power* in the *hands* of the *People*, to *place* it as they will: and therefore to *bound* and *limit* it as they ſee fit, for the publick Utility; and if they do it not *Now*, the *Ages to come* will have occaſion to *blame* them for *ever*. When the ſupreme Power is upon the diſpoſing, if they do not take this *Item*, as part of their proper Work, *To bind the Deſcent of it to a Proteſtant*, I ſhall blame them: But I ſhall do ſo much more, if after the danger we have been in, of Arbitrary *Domination* and *Popery*, by the King's raiſing *Arms*, and putting *Judges* in and out at his Pleaſure, they do not take more care of the *Supreme Power*, to lay it and its *Rights* better together: Eſpecially, ſeeing nothing can indeed be That in Nature, which it is, without its *Properties*. This is uniform (I muſt perſiſt) to the Nature of *Government*; That where the *Supreme Authority* is, there muſt be its *Prerogatives*; and where the chief or principal *Rights* of it is, there ſhould all the reſt which depend upon, and belong to it, be placed alſo: Where *Legiſlation* is lodged, there ſhould the *Militia*, there ſhould the *Power* of *making Judges*, to name nothing more than ſerves my turn, be lodged alſo. It is this hath been the great Declenſion, Fault, or Defect of our *Engliſh* Common-wealth, That the People have ſuffered theſe *Rights* of *Soveraignty*, to come to be divided, ariſing (we muſt conceive) from the *Adminiſtration*, that is, *Mal Adminiſtration*; as appears, for Example, in the *Militia*, which upon the freſh coming in of the Late King, was in two or three hot *Acts*, declared to *Be*, and

ever to have *Been* in the *King*; when both the Aſſertion was groſs Flattery, and ſuch *Acts* void, as fundamentally repugnant with the *Conſtitution*.

There is one *Difficulty* to be thought on, and that is, the *Negative Voice* of the *Prince* in his *Parliament*. The *Lords* and *Commons* may agree upon ſome Law for the Publick benefit, and the *King* alone may refuſe to paſs it. If he be obſtinate, this is a great Evil, and might really make one think, it would be better therefore (for the preventing this inconvenience) to place the *Supreme Power* in *Lords* and *Commons* only, without a *Controuler*, unto which may be added, the Power of Calling and Diſſolving *Parliaments* at Pleaſure; by Vertue whereof, our *Kings* hitherto have pretended a Power predominant over them. But foraſmuch theſe *Prerogatives* may be *diſputed* & the *Negative Voice* hath been *deny'd* by many Judicious Men, who have pleaded the Obligation of former Princes to *confirm* thoſe Laws, *quas vulgus elegerit*; it is to be hoped, That the Wiſdom of the *Nation* will be able to find out ſome *Expedient* or Salve for this *Difficulty*, and for more than That alſo; So long as they have the *Golden Opportunity*, to bring a *Crown* in *One* hand, with their *Terms* or *Conditions* in the Other.

As for the ſeveral *Grievances* that need *Redreſs* and many *Good Things* that are *wanting* to *compleat* the *Happineſs* of our Kingdom; there may be ſome Foundation laid happily, or Preparations made in order thereunto, by this *Convention*, but as belonging to the *Adminiſtration*, and being Matters of long Debate, they are the Work more properly of an *Enſuing Parliament*. Only let not the *Members* of this preſent *Great Aſſembly* forget, that they having ſo *unlimited* a *Power*, and the Nation ſuch an Opportunity, which, as the *Secular Games*, they are never like to ſee, but once, they are more ſtrictly therefore bound in *Conſcience*, and in Duty to their *Country*, to neglect no kind of thing, which they Judge *abſolutely neceſſary* to the *publick Good*. I care not if I commend Three or Four ſuch particulars againſt the Time to Conſultation, which ſhall be theſe. A Regulation of *Weſtminſter-Hall*: A Proviſion againſt Buying or Selling of Offices: A Regiſter of *Eſtates*: A Freedom from *Perſecution*, (by a Bill for *Comprehenſion* and *Indulgence*) in the Buſineſs of Religion: A Redemption of the *Chimny Money*, which bringing in the *King* to be *Lord* of every Man's *Houſe*, is againſt *Property*; & an *Over balance* in the *Revenue*, is againſt the *Intereſt* of the *Nation*.

AND here the *Sheet* being at an End, and Room left, We cannot but reflect upon the *King*; there being ſo much Concern in the Minds of Many, about their *Allegiance* to Him, though He be gone: But ſuch Perſons as theſe ſhould think a little more to the Bottom, That a *People* is not made for the *King*, but the *King* for the *People*: And though He be Greater than Them in ſome Reſpects; yet, *Quoad finem*, the *People* are always Greater than He: That is, If the Good of the *One*, and the *Other*, ſtand in Competition, there is no Compariſon, but a *Nation* is to be preferr'd, before *One Man*. If the Being of them be inconſiſtent one with another, there is no doubt, but it is better that a King *Ceaſe*, than that a *Whole Nation* ſhould *Periſh*. And upon ſuch a Suppoſition as this, all Obligations as to Duty, muſt *ceaſe* likewiſe. There are ſome (in all Conditions in all *Oaths*, as the beſt *Caſuiſts* tell us (ſuch as *Rebus ſic ſtantibus*, for One) that do much ſtreighten our *Conſciences* by, in theſe Caſes: *He is the Minister of God, for our good*, ſays the *Scripture*: And if any Prince therefore be under thoſe Circumſtances, as that it cannot be for the *Peoples Good*, that he ſhould Rule over them. We do look upon ſuch a Ruler to be bound in Conſcience to give up his *Government*, as being no *Miniſter of God* upon that Account: And ſo, having no Authority from God for that *Office*, the Peoples Obligation to be Subject to *Him*, is at an end with it. If they obey him longer, it is for *Wrath*, not for *Conſcience Sake*. If his Majeſty, now of *Great Britain*, out of ſome deep ſence, that he being a *Roman Catholick* cannot Rule, and be true to his *Religion*, (which he may ſuppoſe does oblige him to an Eſtabliſhment thereof, by all the ways, and means of *his* Church, though never ſo deſtructive to *Ours*) but it will be to the *Hurt*, not *Good*, of us who are *Proteſtants*, hath been pleaſed to withdraw himſelf from his *Government*, to make us more quiet and happy; we are in all Gratitude, to acknowledg his *Piety*, *Goodneſs*, and *Condeſcention*, to be ſo much, as very few of his Subjects could ever have ſuſpected: But if it be out of another Mind, he hath done it; we have ſtill more Reaſon to bleſs *Almighty God*, who does often ſerve his *Providence* by mens *Improvidence*, and cutting off mens Ends from their Means, he ties their Means to his own Ends, when he is pleaſed to work *Deliverance* for a People; as he hath, at this Seaſon ſo graciouſly and wonderfully done for *Us*; that there is nothing more needful, even to the moſt ſcrupulous Conſcience, than an humble and awful Acquieſcence in the *Divine Counſel*, to give Satisfaction in this Matter.